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14 APPLE INC.

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18
19 AYLUS NETWORKS, INC.,

CASE NO. 3:13-cv-04700-EMC

20 Plaintiff,

**DEFENDANT APPLE INC.'S
SUPPLEMENTAL CLAIM
CONSTRUCTION BRIEF REGARDING
AYLUS'S NEW CONSTRUCTION OF
"SERVING NODE"**

21 v.

22 APPLE INC.,

23 Defendant.

Date: Nov. 21, 2014

Time: 1:00 p.m.

Place: Courtroom 5, 17th Floor

Judge: Honorable Edward M. Chen

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1 Pursuant to the Court's November 4, 2014 Order (Dkt. No. 89), Defendant Apple Inc.
2 ("Apple") submits this supplemental brief regarding Aylus's new proposed construction of
3 "serving node" in U.S. Patent No. RE44,412 (the "'412 patent").

4 **I. CORRECT CONSTRUCTION OF THE TERM "SERVING NODE"**

5 **A. "serving node" (claims 1, 15, 20, 27)**

Apple's Proposed Construction	Aylus's New Proposed Construction
A node configured to establish an IMS session with the UE.	A node configured to establish communication with the UE.

6 Apple's proposed construction remains the same. The Court should adopt that
7 construction for the reasons previously set forth in Apple's responsive claim construction brief
8 and first supplemental claim construction brief. Apple Br. (Dkt. No. 55) at 14-17; Apple Supp.
9 Br. (Dkt. No. 85) at 8-9.

10 Aylus's new construction adopts much of Apple's proposed construction, but replaces the
11 language "establish an IMS session with the UE" with "establish communication with the UE."
12 The Court should reject Aylus's new construction because: (1) it ignores the repeated and
13 exclusive teachings of the patent specification that the serving node establishes an IMS session
14 with the UE; and (2) it merely recites what is already required by the surrounding claim language,
15 thereby improperly rendering this claim term superfluous.

16 First, Aylus's new construction ignores the teachings of the patent specification that the
17 serving node establishes an IMS session with the UE. The specification does not teach that the
18 serving node simply establishes communication with the UE, but that it establishes IMS sessions
19 with the UE. As previously established in Apple's responsive brief, the patent specification and
20 figures consistently and exclusively describe the serving node as being configured to establish
21 IMS sessions. Apple Br. at 14-15. Indeed, the specification never contemplates a serving node
22 that cannot establish an IMS session. *Id.* Further, the specification's description of IMS is not
23 limited to merely one embodiment, but instead is described as part of "the invention" itself.
24 Apple Br. at 15-16 (citing the '412 patent at 1:35-37; 5:49-53). Because the specification twice
25 describes "the invention" as involving IMS, the "serving node" limitation is not entitled to a
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1 broader scope. *Wang Labs., Inc. v. Am. Online, Inc.*, 197 F.3d 1377, 1383 (Fed. Cir. 1999); *Watts*
2 v. *XL Sys., Inc.*, 232 F.3d 877, 882 (Fed. Cir. 2000); *Honeywell Intl, Inc. v. ITT Indus.*, 452 F.3d
3 1312, 1318 (Fed. Cir. 2006). In short, when “serving node” is interpreted in light of the
4 specification, as it must be, the inescapable conclusion is that the “serving node” is configured to
5 establish an IMS session with the UE.

6 Second, Aylus’s new construction renders the “serving node” limitation superfluous by
7 reciting what is already required by other claim language, *i.e.*, that the serving node be configured
8 to “establish communication” with the UE. It is a fundamental principle of claim construction
9 that all words in a claim should be given meaning. *Innova/Pure Water, Inc. v. Safari Water*
10 *Filtration Sys., Inc.*, 381 F.3d 1111, 1119 (Fed. Cir. 2004) (“all claim terms are presumed to have
11 meaning in a claim”); *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006) (claims
12 must be “interpreted with an eye toward giving effect to all terms in the claim.”); *Cat Tech LLC v.*
13 *TubeMaster, Inc.*, 528 F.3d 871, 885 (Fed. Cir. 2008) (refusing to adopt a claim construction
14 which would render a claim limitation meaningless); *Elekta Instrument S.A. v. O.U.R. Scientific*
15 *Int’l, Inc.*, 214 F.3d 1302, 1305-07 (Fed. Cir. 2000) (refusing to adopt a claim construction which
16 would render claim language superfluous). Each claim of the ’412 patent requires that the
17 serving node include CP logic (Apple Br., Ex. 1 (’412 patent) at 24:40-41, 25:66-67, 26:36-37)
18 and that the UE include CPP logic (*id.* at 24:46-47, 25:57-58, 26:41-47). Each claim also requires
19 that the CP logic (in the serving node) be configured to cooperate with the CPP logic (in the UE)
20 to negotiate media content delivery. *Id.* at 24:46-51, 25:57-62, 26:41-52. In order for the serving
21 node’s CP logic and UE’s CPP logic to cooperate in negotiating media content delivery, the two
22 components must necessarily be configured to communicate with each other. Aylus’s
23 construction therefore recites only what is already required by other claim language, effectively
24 rendering the “serving node” limitation superfluous.

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1 **II. CONCLUSION**

2 For the foregoing reasons, Apple respectfully requests that the Court adopt Apple's
3 construction of the term "serving node."

5 Dated: November 10, 2014

DLA PIPER LLP (US)

6 By: /s/ Mark D. Fowler

7 Mark D. Fowler
8 Attorneys for Defendant Apple Inc.

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